

**MINUTES**  
**REGULAR MEETING OF BOARD OF LAND COMMISSIONERS**  
**December 17, 2007, at 9:00 a.m.**  
**Room 303 State Capitol Building**  
**Helena, Montana**

**PRESENT:** Governor Brian Schweitzer, Attorney General Mike McGrath, Superintendent of Public Instruction Linda McCulloch, State Auditor John Morrison, and Secretary of State Brad Johnson

DNRC Director Mary Sexton was absent, Joe Lamson DNRC Deputy Director presided over the meeting.

Mr. Johnson moved for approval of the minutes from the November 19, 2007, meeting of the Board of Land Commissioners. Seconded by Mr. McGrath. Motion carried unanimously.

**BUSINESS CONSIDERED:**

Mr. Lamson said it is at the discretion of the Board whether it wishes to address these three FWP Conservation Easements together. Governor Schweitzer opted to address them separately.

1207-1      **FWP – DALTON MOUNTAIN C.E. ACQUISITION APPROVAL**

Mr. Lamson stated the first Conservation Easement is from FWP and proposes to conserve 4,892 acres for elk and mule deer winter range near the Nevada Lake Wildlife Management Area in Powell County.

Paul Sihler, Administrator FWP Field Services Division, stated the Dalton Mountain project is part of the Blackfoot Community project, the Nature Conservancy's effort to work with the Blackfoot Challenge to acquire Plum Creek Timber Company's land to conserve it and put it into working agriculture. The FWP proposes to acquire an easement of 4,892 acres. Most of it is winter range. This project involves approximately half of the property the Mannix's already own. They are acquiring a couple thousand acres from the Nature Conservancy as part of the Plum Creek takeout from the deal. FWP is using funding from the Forest Legacy to acquire an easement on all of that land which amounts to 4,892 acres. The Mannix's are donating about 25% of the value of the easement as a match for the Forest Legacy funding which is \$1.379 million. He respectfully requested approval from the Board on this project.

Motion was made by Mr. Morrison to approve the Dalton Mountain Acquisition. Seconded by Ms. McCulloch. Motion carried unanimously.

1207-2      **FWP – PARADISE FISHING ACCESS SITE ACQUISITION APPROVAL**

Mr. Lamson introduced the Paradise Fishing Access Site acquisition saying this is located in Sanders County.

Mr. Sihler stated this is a 4.29 acre-feet title acquisition for \$170,000 with an additional adjacent 8.31 acres in a permanent, no-cost public recreational lease for a total of 12.6 acres. FWP has

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been working to create a floating corridor from Missoula through Sanders County to Thompson Falls and this project falls in a gap in that floating corridor.

Motion was made by Ms. McCulloch to approve the Paradise Fishing Access Site acquisition. Seconded by Mr. Johnson. Motion carried unanimously.

1207-3        FWP – BROWN VALLEY C.E. ADDITION APPROVAL

Mr. Lamson introduced this item by saying the Conservation Easement is proposed on 205 acres on land near Florence, Montana, for the existing Brown Valley Ranch Conservation Easement.

Mr. Sihler said this property is adjacent to FWP's Three-mile Wildlife Management Area in Ravalli County. The FWP has had an easement with the Browns since 1995, one in 2000, and this is the third addition. The terms in the easement are staying the same as in the previous easements. The cost is \$45,399 of Habitat Montana funding. The Browns are generously offering this to FWP at the same price. FWP purchased the original easement in 1995, this will be a restatement of the deed. He told the Board the thing to note about this project that is different than most of the Habitat Montana projects is there is not hunting access on this particular easement. FWP received 13 oral and written comments including from the Ravalli Fish and Wildlife Association and all comments were in support. FWP is requesting approval.

Motion was made by Mr. Johnson to approve the Brown Valley CE. Seconded by Mr. McGrath. Motion carried unanimously.

1207-4        OIL AND GAS LEASE SALE APPROVAL

Mr. Lamson told the Board the DNRC held its December oil and gas lease sale with a total of 162 tracts offered for sale. All 162 tracts were leased for a total of \$398,000.

Governor Schweitzer asked Mr. Mason if there were any thing that was unusual or if there were any trends for this sale.

Monte Mason, Minerals Management Bureau Chief, responded this sale was fairly moderate, \$5.55 per acre. The sale in September was \$5.25 per acre. The acreage in Musselshell County was in the southern end and was far away from the part of the county that was receiving high bids previously. It was a fairly routine sale.

Motion was made by Mr. McGrath to approve the oil and gas lease sale. Seconded by Mr. Johnson. Motion carried unanimously.

1207-5        COMMUNITIZATION AGREEMENT APPROVAL

Mr. Lamson told the Board this agreement is between the Marathon Oil Company on a lease the Department has interest in. The Communitization Agreement will allow the state to receive its proper share of the oil production in that area. The department recommends approval.

Motion was made by Mr. Johnson to approve the Communitization Agreement. Seconded by Mr. McGrath. Motion carried unanimously.

1207-6      LEWIS AND CLARK COMMERCE CENTER PROPOSED LEASE

Mr. Lamson told the Board this proposal by the Lewis and Clark Commerce Center is for a lease agreement on state trust land in Gallatin County, in the City of Bozeman at the corner of Baxter and Simmental Way. This will be an agreement with the GenMar Enterprises who intends to put motels on that particular location.

Jeanne Holmgren, DNRC Real Estate Management Bureau Chief, informed the Board about the proposed lease saying she was quite excited to bring the proposal before the Board today. It is the Lewis and Clark Commerce Center at the corner of Baxter and Simmental Way, it is also between the 7<sup>th</sup> Street and 19<sup>th</sup> Street exits in Bozeman. The department has gone through the subdivision process, the infrastructure is in place, the first lease on this property is for a state office building, the department leases it to the Board of Investments and the department's unit office is located there. Over a period of time the department has marketed the property and has had successful response to the RFP for motels on this property. This proposed lease is in concert with the Real Estate Management Plan, it is urban property, it is in the path of growth and the department will participate in that growth in the Gallatin County area. The terms and conditions of the lease are as identified in the documentation, it is a 50-year lease with options to renew for 99 years. The rentals are as indicated in the documents. The lessee is Gene Cook, who is also a lessee of state property in Bozeman. It is a good deal for the State of Montana and Ms. Holmgren requested approval.

Motion was made by Ms. McCulloch to grant final approval to the Lewis and Clark Commerce Center lease. Seconded by Mr. McGrath. Motion carried unanimously.

1207-7      FINAL APPROVAL - DOC TRANSFER OF PINE HILLS TO CUSTER COUNTY §77-2-351, MCA

Mr. Lamson said this item is for final approval of the Department of Corrections transfer of Pine Hills facilities in Custer County. This item has been before the Board several times and has finally come to fruition.

Jim Hunter, Department of Corrections, Pine Hills Correctional Facility Superintendent, told the Board this will be very good use of this property, the county would like it and needs it. It relieves the state of several liability issues, demolition costs, etc. He said he hoped this received approval.

Motion was made by Mr. Morrison to grant final approval of the DOC Transfer of Pine Hills to Custer County. Seconded by Mr. Johnson. Motion carried unanimously

Mr. Lamson asked if the Board wanted to take items 1207-8, -10, and -11 together since all sales were salvage timber sales. The Three Creeks #2 timber sale would be discussed separately. The Board agreed.

1207-8      MILL POCKET FIRE SALVAGE TIMBER SALE APPROVAL

David Groeschl, DNRC Forest Management Bureau Chief, described the three proposed fire salvage sales. The Mill Pocket Fire Salvage Timber Sale is the last of the salvage sales on the Chippy Creek fire sale, it's the third and final one. This sale is almost 3.5 million board feet and

will treat 572 acres. There is minimal road construction associated with the proposed sale, mostly existing roads being brought up to BMP standards. Very straight forward minimal issues. The department has been working with the Confederated Salish and Kootenai Tribe early, the forestry group, the cultural resources, and Tribal Council to get approval to access the state piece to salvage, they are doing some salvage in that area as well.

1207-10      STARVING CRAMER FIRE SALVAGE TIMBER SALE APPROVAL

This salvage sale is on Mile Marker 124 Fire. That fire was located east of Missoula at the Beavertail Exit and proposes to harvest over 1 million board feet treating 188 acres. Again, there is minimal road construction required, minimal issues as well. This one has different terrain from Mill Pocket as Mill Pocket is gently rolling ground, lots of tractor conventional harvesting. Starving Cramer is steeper, rockier ground where cable system harvesting will be used.

1207-11      TIN CUP FIRE SALVAGE TIMBER SALE APPROVAL

This proposed salvage sale is a sale that was approved last month by the Board. There were no bids. All the other fire salvage sales have sold, this is the only one that has not. One of the main reasons is when the appraisal was done for the sale it was just prior to diesel fuel prices taking a significant jump, also Douglas fir lumber prices dropped significantly in the last couple of weeks. Two thirds of the volume of this proposed sale is Douglas fir and about 1/3 is pine, and it is all small. There is a mandatory pulp removal because of the wildland-urban interface. The minimum bid price was a little high, that was the feedback the department received. The department reappraised it and lowered the minimum bid price to \$12/ton, and it was previously \$20/ton. This sale is before the Board today for approval for the new lower minimum bid price.

Mr. Groeschl requested approval of the three fire salvage timber sales. Mr. Groeschl told the Board there will only be one more fire salvage sale to come before the Board, the Buck Finley Fire Salvage located on Jocko Lakes. That proposed sale is planned for this spring and has Douglas fir and larch which will hold longer than the other sales which have a higher component of pine on them. When the Buck Finley sale is brought forward it will bring the total fire salvage up to almost 19 million board feet and the department will have completed all the fire salvage on trust lands.

Motion was made by Ms. McCulloch to approve the three fire salvage timber sales. Seconded by Mr. Morrison. Motion carried unanimously.

1207-9      THREE CREEKS #2 TIMBER SALE APPROVAL

Mr. Groeschl told the Board this is the second of four proposed Three Creeks Timber Sales. The first one came before the Board in February 2007 for approval. The second sale is about the same as the first sale, it would have about six million board feet harvested covering about 649 acres. Some of the unique aspects of this sale are two old bridge crossings that will be removed and rehabilitated. There is about one mile of net new road construction associated with this sale and one road, a cost-share road with the Forest Service, will be moved out of the SMZ. The old road segment in the SMZ will be obliterated and rehabbed. Overall, the these sales brought forward have all been developed in compliance with the Forest Management Rules, which were developed in 2003 through a negotiated rulemaking process. These sales were all developed to meet or exceed those rules regarding old growth, riparian buffers, wildlife

and other concerns. All those rules and mitigations were incorporated into these sales. The other aspect of this sale, as well as the other ones associated with the Three Creeks project, is in the Final EIS the department identified all the projects it wanted to do within the bear sub-unit and incorporated them into one EIS to get a better idea and to more fully analyze and disclose the cumulative effects associated with those sales. That is key because in the past when projects were done in an area they were done under separate EIS's and the feedback the department received was the public wanted to see them handled in one environmental document to better understand the cumulative effects of all the projects in one area. The department did that in this project. It identified the projects it wanted to conduct, designed them with an interdisciplinary team of resource professionals, incorporated the public comment throughout the development of the project, and developed the projects to meet or exceed the Forest Management Rules the department operates under. So, before the Board today is the second sale of the Three Creeks project. One of the issues that has been brought up is the aspect of an advisory group. Mr. Groeschl apologized if he failed to form a more formal aspect of an advisory group, but the staff talked about how it could get to the intent of what the group was going to do. In the February 2007 minutes it states, "to have an ongoing dialogue and accountability." That was the intent so the department asked itself how can it do that within the existing process instead of developing a new process or adding another layer? In the MEPA process the department identifies ways to improve the current MEPA process. The department wondered: to get to the intent what can it do? For future projects in the Swan, like the White Porcupine, a communication plan was developed. One component of that plan is public participation. The question was how can the department engage the public earlier in the process and more frequently during the process? That is what was attempted in the communication plan, and that is what the department is doing for White Porcupine. The department is trying to engage the local community groups earlier and more frequently to get input and get people to the table to work through issues. The department's intent all along for Three Creeks was to bring some of these groups together and do a field tour of Three Creeks #1. Unfortunately, when the Board approved Three Creeks #1 the bear sub-unit did not open until June 15<sup>th</sup>. Then July 1<sup>st</sup> hits and the state has a bad fire year, the purchaser of Three Creeks #1 did not want to have crews working during the summer conditions. Wisely, they kept crews out of the woods and no harvesting took place on Three Creeks #1. What activity did occur was road building where existing roads were brought up to BMP standards, some existing road reconstruction and also some new roads being built. Beyond that there was no harvesting activity and there wasn't a lot to show folks on the ground. Again, anything with Three Creeks #1, #2, or any other subsequent sales will be developed according to the Forest Management Rules, and have already been analyzed in the Final EIS and the impacts disclosed. The intent is still to get folks out on the ground when there is something to show them, to keep that dialogue ongoing as the department works with them, and to work through issues, not only on the Three Creeks project but on other projects where the public has issues. As far as the accountability aspect, on these sales the department is doing pre-harvest monitoring of soil, stream temperature, and aquatic sediment work, all of that is being done pre-harvest. Post-harvest the monitoring will continue once the activity begins. That monitoring will be ongoing for several years, but that information won't give anyone answers tomorrow, next month, or even in six months. That will be information the department will continue to add to its knowledge base to help improve the projects it does over time. Even if the department takes the public on the ground, it won't have a lot of new data or new things to show other than the monitoring commitments on this project. That is how the department has tried to address an advisory group, in an informal setting with the existing MEPA process.

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Jason Todhunter, Montana Logging Association, spoke in favor of the Three Creeks #2 Timber Sale. He complemented the DNRC on the salvage sales they have put up so quickly to salvage dollars for the state and to provide jobs for Montanans. He said the processes the department went through sounds like it went above and beyond, i.e., new bridges, bringing old roads up to BMP standards. Those are things that are good for public access and also good for maintaining the infrastructure for future harvesting or fire fighting.

Ellen Simpson, Montana Wood Products Association, spoke in favor of the Three Creeks #2 sale. Her association thinks the state has done a good job with the EIS and addressing cumulative effects in one area on four different sales.

Anne Hedges, Montana Environmental Information Center, spoke in opposition to the proposed sale. In the Swan there has been an ongoing controversy for many years, a debate for over a decade about what is the definition of old growth. When MEIC saw the Three Creeks Timber Sale come before the Board last February, the organization was nervous because it was the largest timber sale on old growth and there was a lot of controversy surrounding the sale. The Board received a lot of comments and what it decided because of that controversy, was there was an opportunity because the sale was broken into three phases. That provided an opportunity to look at the environmental impacts and concerns and look at Phase 1 and move forward with it. But before the department moves forward with Phase 2, lets bring people together. It is important to bring people together at the same table to look each other in the eye, to hear different viewpoints, look at the maps, and to try to come up with a discussion so everyone understands each other. When going through a MEPA process there is value but people talk past each other and don't get to the details of why things are wrong. A face-to-face meeting can solve a lot of problems in the long run. The group who came before the Board in February 2007 heard that before Phase II began the idea was to evaluate how Phase I had gone in the area and to have face-to-face interaction before Phase II comes for approval. Ms. Hedges reiterated that even though not much logging has occurred in Phase I, roads were one of the concerns raised. She believes there would have been value in bringing people together before Phase II moved forward. Her group and other concerned parties understood that would happen and they are very frustrated it didn't. From the February 2007 minutes she quotes the Governor as saying, "there has been a suggestion of modifying it in some way, we are not buying the whole pizza we are taking a slice or a third of the pizza at this time and looking at how it worked out." Then the Attorney General said, "I don't sense any resistance from this process from the department of bringing people together prior to Phase II." Ms. Hedges said there has been no communication on this project since then with the people who stood before the Board last February. She said she believes strongly a lot of conflict could be avoided if people could just get together and sit in the same room trying to have these conversations. Ms. Hedges urged the Board to postpone the Phase II sale until there is some opportunity to bring people together and talk about the issues of concern in Phase I.

Mr. Johnson moved to approve the Three Creeks #2 Timber Sale. Seconded by Ms. McCulloch.

Mr. McGrath asked if the department could address how this project interacts with the grizzly bear recovery plan in terms of timelines.

Mr. Groeschl answered the bear sub-unit comes open for three years and then it is closed for seven years under the current rotation schedule. Under the Swan Valley-Grizzly Bear Conservation Agreement, of which the state is one of the three parties, the language in the

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Agreement says the sub-unit will rest for a minimum of three years. Right now, its active for three and closed for seven. The period for being open started July 1, 2007, and will be open for three years. It closes in July 1, 2010, and effectively the operating season will close before the bear sub-unit closes because the state will be finished operating by March 1<sup>st</sup>. There is a restricted spring period and then that unit will close. The sales were designed and developed in compliance with the Swan Valley-Grizzly Bear Conservation Agreement both for timing windows, road density, hiding cover, and all the other mitigations agreed to under that Agreement and have all been incorporated into the design of the timber sales and were analyzed for and incorporated in the Final EIS.

Mr. Morrison said because of the fires he understands the state is behind in Phase I, but there have been roads built. There was not a mandate from the Board for the department to put together a formal committee but Ms. Hedges stated there has been no communication between the department and the February concerned parties in regard to Phase I, road construction or any of these issues prior to bringing Phase II forward. Is that true?

Mr. Groeschl answered there has been communication, not necessarily specific with the rest of the Three Creeks projects. What the department did was during development as it has been working on White Porcupine it put together a field tour in June with interested parties, FOWS, Montana Old Growth, and representatives from the Swan Ecosystem Center. On that tour, because there wasn't much to show in June, the department showed areas on the proposed White Porcupine project. The tour included looking at areas that had been treated 15-20 years ago, the kind of treatments that not only would the department apply to White Porcupine but also would apply in Three Creeks, giving an idea to the parties what the areas would look like both on White Porcupine and on Three Creeks 1 and 2. That's what the tour encompassed. There has been no other communication with the interested parties about the Three Creeks projects, specifically.

Mr. Morrison said in the seven years he's been on the Board this timber sale has generated more concern from various parties than any other timber sale. It also involves large amounts of old growth, hundreds of acres of treatment, it involves watershed issues, and it was because of that combined with the three-stage nature of the project that led him to suggest some kind of collaboration as the project moved along. The MEPA process should not be duplicated over and over again in every case. The MEPA process is a good process. The department went through it properly in this case and received public input but because of the nature of this project, because of the public's concern, and because of the three stages, it presented an opportunity to collaborate with concerned parties in a way that was not possible in the MEPA process, i.e., to allow them to see and verify the way the department is dealing with the buffer zone and the treatment in the old growth areas is good and responsible and allays some of their concerns. He doesn't blame the department for the fact that Phase I hasn't gotten further than it has, there were external circumstances no one expected. But with the road construction, there is something to talk about. There is some harvest in Phase I that would also yield information of interest to the concerned parties. He asked if some of the first harvesting would be in the potential buffer zone areas?

Mr. Groeschl responded he was not sure there will be any harvesting. On Three Creeks #1 he was not aware of any harvesting within any of the SMZ-RMZ areas. There is some planned RMZ harvest within the second sale but not within the first one. Harvest is in all the units in the uplands above the riparian areas.

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Mr. Morrison asked if some of the initial harvesting was planned in the next couple of months.

Mr. Groeschl replied the purchaser said they were planning to start harvesting right after Christmas and work through the winter until break up.

Mr. Morrison asked if the sale was postponed until February would it create any disadvantage for the trust.

Mr. Groeschl replied he was not sure if it would create a disadvantage to the trust not knowing the markets currently. The markets have been soft and will probably continue to be soft for a while. As far as opportunities for selling the sale, Three Creeks #2 has some lower elevation units that have roads where if it were approved and sold now, a purchaser could potentially get in and do some work this winter on those units. If it is postponed until February, there is no opportunity to do any winter harvest on those lower elevation units and they would be done most likely next summer.

Mr. Morrison asked if it would be fair to say if it was postponed until February there would be an opportunity for some of the concerned parties to view harvesting in Phase I and to view road construction from Phase I and still get all the Phase II and III done before the grizzly bear window closes.

Mr. Groeschl said the department could put together a field tour for the groups given that the sales have been put together to meet certain mitigation requirements, both the rules and the Swan agreement. It would be difficult to make major changes to the sales as they are since the EA has been completed and the effects analysis associated with that in the Final EIS disclosed the kind and magnitude of impacts given the mitigations that have already been designed. But the department can take folks out on the ground and have dialogue about what they would like to see. If there are minor things the department can do to make adjustments it can do that without affecting the EA or it can look at how it would effect future projects as well.

Mr. Morrison asked if there were any plans at this time formally or informally to actively engage these concerned parties to get them out on the ground and see what is happening.

Mr. Groeschl replied the department's plan was to continually try to engage them early on in any of its planning processes, to get them out on the ground even during initial scoping and find out the concerns, have people see what the department is planning to do, talk about it.

Mr. Morrison said he was just asking about Three Creeks.

Mr. Groeschl said the plan was to get out on the ground and do a field tour with folks once the department felt it had something to show them and at least have an ongoing dialogue about what they are seeing out there and how some issues could be mitigated.

Mr. Morrison asked when the department expected to bring Phase III to the Board.

Mr. Groeschl replied the Three Creeks project will have four sales. Originally the department thought there would be three but one suggestion the department received was to have a smaller project. The third one will come before the Board in the next couple of months and would only be for 250,000 – 300,000 board feet. The last and final Phase IV would be similar to Three Creeks #2, and it was planned to be before the Board in June or July.



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Mr. Morrison said the timber markets are soft right now, in other words the price of timber is low which means the price of our sale is likely to be fairly low. For right now in historical terms it is depressed.

Mr. Groeschl said markets will stay fairly soft but stable over the course of the next 12 months. It is projected the markets will then gradually improve.

Mr. Morrison asked Ms. Hedges to comment on how she and other interested parties would feel about following up with the department, getting in on the ground, looking at what they've done, and if the Board approves Phase II today coming back and giving their impressions before the Board deals with Phase III.

Ms. Hedges stated it just doesn't seem the department is delaying that much, even if it is delaying by a month, set up a tour even in early January where people could get on the ground and talk to the department. She said this is a perpetual problem in the Swan and is indicative of what the problem has been for many years. Delaying a month or two is not really going to change things that much but it does give people the opportunity to feel like what they thought was going to happen last February will happen. She doesn't think there is that much to be lost by waiting a little bit of time and it will generate good will on behalf of the people in the area who are concerned about this particular sale to give it a little time and let them get on the ground and have a face-to-face and see if there could be some minor things that could be improved. If there was more communication, it doesn't have to be rigorous between now and Phase III but something seems to make sense and parties were told it was going to happen.

Mr. Morrison said he received correspondence on this but not until Thursday and Friday. Since she was the only representative present for the concerned parties where are the others?

Mr. Hedges said her office didn't receive notice of the proposed Three Creeks #2 until Friday. The other representatives were unable to attend the meeting. It was late notice. They didn't have the heads-up time and based upon the discussion last February, they expected more time.

Mr. Morrison said if the department postponed the approval of the sale until January, could the department take people on a tour and show them the road construction, show them using those roads what the plan is for Phase I and Phase II.

Mr. Groeschl said the department would be happy to get folks out on the ground and will try to arrange something in early January to give the crews a couple of weeks of harvesting so the public could see something in addition to the road, at least some area that is being harvested. The department could put together something with its staff in the Swan.

Ms. McCulloch stated over the last seven years this Board has been concerned about access to land, but she was very much interested in making sure the public has access to information, and she thinks that is a two-way street. She said Ms. Hedges stated she hadn't been before the Board since the February meeting, there hasn't been issues that drove her to attend, so basically the big issues are the Three Creek sales, and Mr. Morrison referenced he didn't receive any letters or information from the conservation groups until last week. She said her concern is why there weren't communications to either the Land Board or the DNRC about getting together and having communication. At this point she wonders what the next month will prove that the last four or five months couldn't have proved with folks doing this. She said her

concern is that information access isn't something to talk about when a person wants more time, but it is ongoing all the time. She said she doesn't feel it is a good example of the interested public's actions. She wonders if it is going to be something that occurs in the future again and again.

Ms. Hedges said she hoped it doesn't occur in the future, that people learn lessons as they move along. DNRC has access to all the individuals who are interested in this issue and who need to be present to have these discussions, including the people from the timber industry, people who supported this sale, conservationists, and people concerned about old growth. The department is in the driver's seat. It is not that people weren't concerned, but people get busy, and there was an expectation that DNRC was going to bring people together. Why didn't the interested parties call DNRC and say why aren't you bringing us together? Its just a function of not thinking DNRC was moving on Phase II. Could the interested parties have done a better job? Yes. But it is the agency's role that has management of that land and has been given the responsibility to bring people together prior to Phase II to actually do so. They are the ones who have access to people to bring them together for a meeting and have those discussions. She said her organization is happy to participate in any way but it is up to the department to bring the parties together to have this discussion.

Ms. McCulloch, addressing the supporters of the timber sale, said tell me about what you think about curtailing this for a month or so.

Mr. Todhunter said just listening to the conversation the one issue he sees is they could potentially lose an entire season on the sale, the reason being, the operators need to abide with the grizzly bear plan where there can be no timber harvesting within a three year period. If this is postponed, there will be another season taken out as this sale, because of the grizzly bears, is a winter harvest operation. If it is delayed further, potentially a whole season will be lost.

Mr. Morrison asked the department to commit today to put together a group to tour the area during the first couple of weeks in January regardless of how the vote goes today. He said he didn't think there were the votes to postpone and he said he doesn't entirely agree that the ball is only in the department's court, it is also in the court of the concerned parties. It is a joint responsibility as time goes on to pursue a collaboration. This is the most controversial timber sale since Auditor Morrison has been on the Board, he said it is the largest old growth sale, taking about cutting hundreds of acres of old growth trees at a time when lumber is cheap. Interested parties over time have expressed concern. He said he thinks the vote today will be to go forward with Phase II but he is concerned that on this particular sale that has these unique qualities no collaboration or communication has happened yet. He asked Mr. Groeschl to commit to him today that he can take a group of people out the first weeks of January.

Mr. Groeschl said he could definitely arrange a field tour for folks that are interested in attending, get them out and show them what has been done on Three Creeks #1. He said that can happen in January. In between as the department is looking at bringing the next sale forward, it can definitely get that to happen on the ground. He mentioned in the Final EIS on page I-3 and I-4, there is a proposed schedule of activities detailing when the department was planning to bring each phase to the Board, so there is a disclosure of the proposed schedule in the Final EIS. He said the department would be happy to take folks out on the ground at any time.

Mr. Morrison made a last comment saying it is a shared initiative and shared burden with the conservation community to pursue this and stay on top of it, to work with the department to get the tour, and to come back to the Land Board and give its impressions so the Board knows what the community thinks.

A vote was taken on the motion to approve. Motion carried unanimously.

1207-12      RIGHTS-OF-WAY APPLICATIONS FOR APPROVAL

Mr. Lamson said this month there are 37 non-controversial applications for rights-of-way. They are fairly routine. The applications submitted are: #14423 through 14434 from Fergus Electric Cooperative, Inc., for electric distribution lines; #14435 through 14451 from 3 Rivers Communications for overhead telecommunications cable; #14452 from Helen Trunk and Andrew Trunk Estate for a private access road for normal farming activities; #14453 and 14454 from Larry and Bonnie Cook for private access road for normal farming activities; #14455 from Raymond and Joseph Shupert for a private access road for normal farming, ranching, and timber management activities; #14456 from Charles Lessnau for a private access road to a single family residence; #14457 from Mt. Dept of Transportation for highway bridge construction and maintenance; #14458 from Nemont Telephone Cooperative for a buried telecommunications cable; and #4459 from NorthWestern Energy for a buried 20" natural gas transmission pipeline. Mr. Lamson requested approval.

Motion was made by Mr. McGrath to approve the package of rights-of-way applications. Seconded by Mr. Johnson. Motion carried unanimously.

INFORMATIONAL ITEMS

1207-13      OTTER CREEK PRESENTATION BY SECRETARY OF STATE

Governor Schweitzer said as was stated in the last meeting, there will be a discussion about a difference in philosophy among some members of the Board. He said at the November meeting he stated the next meeting will allow for clarification and clear up any misunderstandings. That was directed at Mr. Johnson. So at this time the Board will give Mr. Johnson a chance to articulate his position on Otter Creek and how his position is counter to other members of the Board.

Mr. Johnson said all of the Board members received a letter written by Great Northern Power Development that was written between the November meeting and this December meeting. It is his office's belief the intent of that letter was clear, that GNPD would like an opportunity to have input before specific proposals are brought to the Board. Mr. Johnson said it is wholly prudent to honor their wishes and postpone that presentation until the January 2008 meeting.

Governor Schweitzer said he was puzzled because what was asked for was Mr. Johnson's position. There have been any number of proposals and discussions about Otter Creek that have come before this Board over the last three years but specifically the question was, "what is your position and how does it countervail to the rest of the Board?"

Mr. Johnson said his office made a good faith decision to postpone this in deference to the concerns of one of the major stakeholders in Otter Creek and he thinks it is wrong to

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demagogue this. He thinks the appropriate decision was made and is sorry the Governor disagrees with it.

Governor Schweitzer said at the last meeting, based upon comments made publicly, the Secretary of State said he fundamentally disagreed with some members of the Board about the development of Otter Creek. He was given the opportunity at the November meeting to state his position. The minutes from the last three years were reviewed and there was nothing by the Secretary of State articulating a position on Otter Creek. At the last meeting the Governor asked Mr. Johnson to articulate a position, not a proposition or a proposal, just simply a position that demonstrated where he stood. GNP's Chuck Kerr has had many meetings as well as other owners and developers in the Otter Creek area, a large number of letters have come, there continues to be changes in the coal market and there will continue to be in the future. He said he wasn't expecting an individual Board member to be in a position where they were making a proposal. So, this was just an opportunity for Secretary Johnson to present a position. But if Mr. Johnson would like to postpone it for another meeting, the Board can live by that.

Mr. McGrath said it is important to clarify a few things in terms of the development of Otter Creek. This is a complicated site, most are aware of that. Many state and private individuals have had a series of meetings and discussions for years about the potential for the development of Otter Creek. It is critical to keep in mind that this is checker board-owned pattern. Great Northern Properties owns significant acreage in the area, it is checker boarded with the state acreage and there are numerous complicated issues in terms of transportation, removal of the coal if it is developed, and all of those issues. GNP has made it very clear to everyone they are not interested in moving forward. Again, the Board received a letter dated December 10, 2007, from Chuck Kerr, President of Great Northern Properties where he says GNP has been reluctant to place its tracts up for lease and they continue to be reluctant to do that. It is important to put that in the record so people understand the nature of this discussion.

Ms. McCulloch said the Board has been dealing with Otter Creek for the past seven years and she came across a document that Monte Mason worked on about a year and a half ago. It was a good overview of the entire Otter Creek and on page 3 it says, "the ultimate goal was a competitive lease sale on a selection of both state and GNP tracts that together encompass an initial logical mining unit. The leasing-bidding process will be coordinated with GNP so that value is maximized for both coal owners." That shows right there that the State of Montana is cognizant of GNP and willing to work with GNP on this in the Otter Creek proposals. Other references are similar to working with GNP on that.

Tom Schultz said before the meeting adjourns, he wanted to thank Patty Greene who will be retiring from DNRC at the end of this month. She has dutifully been the secretary to the Land Board for in excess of 12 years. Not only does she coordinate the meetings, she gets the room reserved, provides refreshments, and takes the minutes. She has done a tremendous job of transcribing the minutes and we really wanted to give Patty a tremendous send off. We wish her well on her retirement, have some cake and say thank you.

Governor Schweitzer said since the meeting has not adjourned, he wanted to take the prerogative of thanking Patty not only for many years service in this room but many years of service to the Land Board as a whole. There will be long after we are gone, after all of us are gone here, there will be a permanent record of the transactions and the words that were said here as a matter of public record and we appreciate not only her promptness in providing those minutes, which is not always the case with other meetings and minutes. She has been a very

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good friend to the people of Montana, a good friend to the Land Board. He thanked her for the many years of service.

Motion to adjourn was made by Mr. Johnson.